



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9922-22-Region 10]

Issuance of an NPDES General Permit for Oil and Gas Geotechnical Surveys and Related Activities in Federal Waters of the Beaufort and Chukchi Seas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of final NPDES general permit.

SUMMARY: The Director, Office of Water and Watersheds, EPA Region 10, is publishing notice of availability of the final National Pollutant Discharge Elimination System (NPDES) General Permit for Oil and Gas Geotechnical Surveys and Related Activities in Federal Waters of the Beaufort and Chukchi Seas (Geotechnical General Permit; Permit No. AKG-28-4300).

The Geotechnical General Permit authorizes twelve types of discharges from facilities engaged in oil and gas geotechnical surveys to evaluate the subsurface characteristics of the seafloor and related activities in federal waters of the Beaufort and Chukchi Seas.

Geotechnical borings are collected to assess the structural properties of subsurface soil conditions for potential placement of oil and gas installations, which may include production and drilling platforms, ice islands, anchor structures for floating exploration drilling vessels, and potential buried pipeline corridors. Geotechnical surveys result in a disturbance of the seafloor and produce discharges consisting of soil, rock and cuttings materials, in addition to facility-specific waste streams authorized under this General Permit. Geotechnical related activities also result in a disturbance of the seafloor and produce similar discharges. These activities may include feasibility testing of equipment that disturbs the seafloor, and testing and evaluation of trenching technologies. The Geotechnical General Permit contains effluent

limitations and requirements that ensure the discharges will not cause an unreasonable degradation of the marine environment, as required by Section 403(c) of the Clean Water Act (i.e. Ocean Discharge Criteria Evaluation). 33 U.S.C. 1342(c).

DATES: The issuance date of the Geotechnical NPDES General Permit is the date of publication of this notice. The Geotechnical General Permit shall become effective on **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION]**. Operators must submit a Notice of Intent (NOI) to discharge at least 90 days prior to initiation of discharges.

ADDRESSES: Copies of the Geotechnical General Permit, the Response to Comments Document, and the Ocean Discharge Criteria Evaluation may be found on the EPA Region 10 website at: <http://yosemite.epa.gov/r10/water.nsf/npdes+permits/arctic-gp>. Copies of the documents are available upon request.

Mail: Written requests for copies of the documents may be submitted to Audrey Washington, EPA Region 10, Office of Water and Watersheds, 1200 6th Avenue, Suite 900, OWW-191, Seattle, WA 98101-3140.

E-mail: Electronic requests may be sent to: Washington.Audrey@epa.gov.

Telephone: Requests by telephone may be made to Audrey Washington at (206) 553-0523.

See SUPPLEMENTARY INFORMATION for other document viewing locations.

FOR FURTHER INFORMATION CONTACT: Erin Seyfried, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10, Mail Stop OWW-191, 1200 6th Avenue, Suite 900, Seattle, WA 98101-3140, (206) 553-1448, seyfried.erin@epa.gov.

SUPPLEMENTARY INFORMATION: On November 22, 2013, EPA issued a draft Geotechnical General Permit for public review, and established a comment deadline of January 27, 2014 (78 FR 70042). Notice of the draft General Permit was also published in the Anchorage Daily News, the Arctic Sounder, and Petroleum News. Public meetings and

hearings were held in communities on the North Slope and in Anchorage the week of January 6, 2014. In response to requests for an extension of the deadline from the Alaska Eskimo Whaling Commission and the Inupiat Community of the Arctic Slope, EPA extended the comment period for an additional 23 days, from January 27, 2014 to February 19, 2014 (79 FR 4344).

Based on comments received during public review of the draft Geotechnical General Permit, EPA determined that certain permit provisions warranted further consideration and notified interested parties of this determination on March 21, 2014. To further that process, EPA met with several commenters to clarify certain technical issues and obtain additional information. The public comments and subsequent information resulted in EPA revising several permit provisions, which were described in the Fact Sheet accompanying the re-proposal.

On August 15, 2014, EPA re-proposed the Geotechnical General Permit for public review, and established a comment deadline of September 15, 2014 (79 FR 48147). In response to requests for an extension of the deadline from the Alaska Eskimo Whaling Commission, EPA extended the comment period for an additional 15 days, from September 15, 2014 to September 30, 2014 (79 FR 56577).

Certain provisions in the General Permit have been revised in response to comments and information received from tribal, state and local governments, the Alaska Eskimo Whaling Commission, environmental advocacy groups, industry representatives, and individual citizens. All comments, along with EPA's responses, are summarized in the Response to Comments document.

Document Viewing Locations. The final Geotechnical General Permit, Response to Comments Document and Ocean Discharge Criteria Evaluation may also be viewed at the

following locations:

(1) EPA Region 10 Library, Park Place Building, 1200 6th Avenue, Suite 900, Seattle, WA 98101; (206) 553-1289.

(2) EPA Region 10, Alaska Operations Office, 222 W 7th Avenue, #19, Room 537, Anchorage, AK 99513; (907) 271-5083.

(3) Z. J. Loussac Public Library, 3600 Denali Street, Anchorage, AK 99503; (907) 343-2975.

(4) North Slope Borough School District Library/Media Center, Pouch 169, 829 Aivak Street, Barrow, AK 99723; (907) 852-5311.

EPA's administrative record for the Geotechnical General Permit is available for review at the EPA Region 10 Office, Park Place Building, 1200 6th Avenue, Suite 900, Seattle, WA 98101, between 9:00 a.m. and 4:00 p.m., Monday through Friday. Contact Erin Seyfried at seyfried.erin@epa.gov or (206) 553-1448.

Oil Spill Requirements. Section 311 of the Act, 33 U.S.C. 1321, prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges authorized under the Geotechnical General Permit are excluded from the provisions of CWA Section 311, 33 U.S.C. 1321.

However, the Geotechnical General Permit will not preclude the institution of legal action, or relieve the permittees from any responsibilities, liabilities, or penalties for other unauthorized discharges of oil and hazardous materials, which are covered by Section 311.

Endangered Species Act. Section 7 of the Endangered Species Act, 16 U.S.C. 1531-1544, requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species, or designated critical habitat. EPA analyzed the discharges proposed to be authorized by the Geotechnical General Permit, and their potential to adversely affect any of the threatened or endangered species or

designated critical habitat areas in the vicinity of the discharges in a Biological Evaluation dated December 2013. EPA completed a supplemental analysis evaluating the effects of interrelated and interdependent actions on the Pacific walrus on February 11, 2014. On January 31 and March 19, 2014, EPA received letters of concurrence from the USFWS and NMFS, respectively, agreeing with EPA's determinations of effects. On March 13, 2014, in response to EPA's request for a conference on the Pacific walrus, the USFWS confirmed that the proposed permit action would not jeopardize the continued existence of this species.

Essential Fish Habitat. The Magnuson-Stevens Fishery Conservation and Management Act requires EPA to consult with NMFS when a proposed permit action has the potential to adversely affect Essential Fish Habitat (EFH). EPA's EFH assessment is included as Appendix A to the BE. The EFH assessment concluded that the discharges authorized by the Geotechnical General Permit will not adversely affect EFH.

Coastal Zone Management Act. As of July 1, 2011, there is no longer a Coastal Zone Management Act (CZMA) program in Alaska. Consequently, federal agencies are no longer required to provide the State of Alaska with CZMA consistency determinations.

Executive Order 12866. The Office of Management and Budget exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Paperwork Reduction Act. EPA has reviewed the requirements imposed on regulated facilities in the Geotechnical General Permit and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Regulatory Flexibility Act. Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., a federal agency must prepare an initial regulatory flexibility analysis "for any proposed rule" for which the agency "is required by section 553 of the Administrative Procedure Act (APA), or any other law, to publish general notice of proposed rulemaking." The RFA exempts from

this requirement any rule that the issuing agency certifies “will not, if promulgated, have a significant economic impact on a substantial number of small entities.” EPA has concluded that NPDES general permits are permits, not rulemakings, under the APA and thus not subject to APA rulemaking requirements or the RFA.

Unfunded Mandates Reform Act. Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires federal agencies to assess the effects of their “regulatory actions” (defined to be the same as “rules” subject to the RFA) on tribal, state, and local governments and the private sector. However, the Geotechnical General Permit is not a “rule” subject to the RFA, and are therefore not subject to the UMRA.

Appeal of Permit. Any interested person may appeal the Geotechnical General Permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the General Permit issuance date. Affected persons may not challenge the conditions of the General Permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the general permit in court or apply for an individual NPDES permit.

Authority. This action is taken under the authority of Section 402 of the Clean Water Act as amended, 33 U.S.C. 1342. I hereby provide public notice of the final Geotechnical General Permit in accordance with 40 CFR 124.15(b).

Dated: January 21, 2015.

Daniel D. Opalski,
Director,
Office of Water and Watersheds,
Region 10.

[FR Doc. 2015-01704 Filed 01/28/2015 at 8:45 am; Publication Date: 01/29/2015]